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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,311	04/06/2001	Uri Tasch	50323-017	4152

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MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 06/13/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,311

Applicant(s)

TASCH ET AL.

Examiner

Brian Szmal

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-96 is/are pending in the application.
- 4a) Of the above claim(s) 10-57, 59, 60, 63-90 and 92-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 58, 61, 62 and 91 is/are rejected.
- 7) ☒ Claim(s) 3-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election with traverse of Claims 1-9, 61, 62 and 91 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the Examiner has failed to produce any reasons that the inventions are independent or there is a serious burden on the Examiner. This is not found persuasive because within the broad description of force analysis utilizing a force plate, the applicant has also included other variables that are being measured by the force plate system. The measurement of a ground reaction force is not the same as measuring: stance time, the impulse variable, limb contact time, the animal's weight, the m-energy variable, the p-energy variable, the symmetry factor or the step size. All of these variables can be measured at the same time by the force plate while having the computer determine the above elements separately. Therefore the above elements are independent from one another, and further justify the species election. Furthermore, searching for all of the above variables would place an undue burden on the Examiner during the process of searching for prior art due to the sheer number of different variables that are being measured and calculated at the same time. The nonelected species will be reinstated once the elected claims have been found to be allowable over the prior art.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The abstract of the disclosure is objected to because the abstract exceeds the maximum limit of 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 91 are rejected under 35 U.S.C. 102(b) as being anticipated by Pratt, Jr.

Pratt, Jr. discloses a diagnostic force analysis system and further discloses a first plate and a second plate, each further comprising multiple load cells; a processor; the processor receives data from the force plates and determines the magnitude and location of the force applied to the plates via an instruction set; calculate ground reaction forces; and comparing the calculated forces to determine if the animal has a sound condition, an indeterminate animal condition, or a lame condition. See Abstract; and Figures 1-4.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 58, 61 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt, Jr. in view of Tsuchiya et al.

Pratt, Jr., as discussed above, disclose a means for analyzing the gait of an animal, but fail to disclose constraining the animal to ensure the animal walks on the force plates.

Tsuchiya et al discloses a means for analyzing the balance of an animal utilizing force plates and further disclose constraining the animal to ensure the animal walks on the force plates. See Figure 1.

Since both Pratt, Jr. and Tsuchiya et al both disclose using force plates to analyze a force associated with an animal's gait, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the and method of Pratt, Jr. to include the use of a constraining system, as per the teachings of Tsuchiya et al, since it would provide a means of ensuring the animal has adequately stepped on the force plate, which would further provide sufficient data to analyze the gait of the animal. Even though Tsuchiya et al discloses the use of a force plate for measuring the balance of a person, it would have been obvious to one of ordinary skill in the art to recognize the force plate is still reacting to forces applied to it by the person, just as it would for an animal, and those forces can also be used to measure other variables associated with an animal's or person's gait.


Response to Arguments

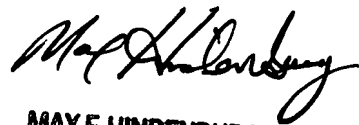
7. Applicant's arguments with respect to claims 1, 2, 58, 61, 62 and 91 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claims 3-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj who's telephone number is (703) 308-3737 and group fax number is (703) 308-0758. The examiner can normally be reached on Monday-Friday, with second Fridays off.


BS
June 11, 2003


MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700